IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

FRIDAY, THE 24TH AUGUST 2007 / 2ND BHADRA 1929

Crl.MC.No. 2726 of 2007()

CC.174/2007 of JUDL.MAGISTRATE OF FIRST CLASS-I, THAMARASSERY

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PETITIONER: ACCUSED 1 TO 3:

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1. SIDDIQUE, S/O. AHAMMED HAJI,
KALLARAMKETTI, CHALIYAR THODUKAYIL,
KIZHAKKOTH AMSOM, KOZHIKODE.

2. MOIDEEN KOYA, -DO-.

3. FATHIMA -DO-.

BY ADV. SRI.T.G.RAJENDRAN

RESPONDENTS: RESPONDENTS/STATE:

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1. THAHIRA, W/O. SIDDIQUE,
CHALIYAR THODUKAYIL, KIZHAKKOTH P.O.,
KOZHIKODE TALUK.

2. S.I. OF POLICE,
KODUVALLY POLICE STATION, PALAKKAD DISTRICT.
REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM

BY ADV. SRI.CIBI THOMAS
PUBLIC PROSECUTOR SRI.GIKKU JACOB

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 24/08/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J.

Crl.M.C.No.2726 of 2007

Dated this the 24th day of August 2007

O R D E R

The petitioners are husband, brother-in-law and mother-in-law respectively of the first respondent. They face indictment in a prosecution for offence punishable under Section 498A I.P.C. Cognizance has been taken in the said case on the basis of a final report submitted by the police after due investigation. Investigation in that crime was initiated on the basis of a complaint filed by the first respondent herein.

2. The petitioners and the first respondent have come before this court to report to the court that the disputes between them have been settled amicably. The first petitioner and the first respondent have now resumed harmonious co-habitation. They find the continuance of this prosecution before the learned Magistrate as an unnecessary irritant in the relationship between them. In these circumstances, it is prayed that the settlement of the disputes and the composition of the offence allegedly committed by the petitioners by the first respondent

herein may be taken into consideration and the prosecution initiated against the petitioners may be quashed invoking the powers under Section 482 Cr.P.C.

3. The first respondent is represented by his counsel Adv.Sri.Cibi Thomas. The learned counsel asserts that the matter has been settled. The first respondent has no surviving grievance and that the first respondent is now residing with the first petitioner. I am satisfied from the averments in this petition, from the submissions made at the Bar by the learned counsel for the rival contestants and Annexure 2 - copy of an affidavit filed by the first respondent that the parties have settled their disputes and the first respondent has compounded the offence allegedly committed by the petitioners. I am satisfied that, if legally permissible, the settlement and composition can be accepted.

4. But the offence under Section 498A I.P.C is not compoundable under Section 320 Cr.P.C. The learned counsel, in these circumstances, rightly rely on the decision of the Supreme Court in B.S.Joshi vs. State of Haryana [AIR 2003 SC 1386]. That decision is authority for the proposition that the

interests of justice may, at times, transcend the interests of mere law and in such circumstances, the stipulations of Section 320 Cr.P.C cannot be held to fetter the sweep, width and amplitude of the extraordinary inherent jurisdiction under Section 482 Cr.P.C. I am satisfied that this is an eminently fit case where the powers under Section 482 Cr.P.C, as explained in the dictum in B.S.Joshi vs. State of Haryana [AIR 2003 SC 1386] are liable to be invoked to bring to premature termination C.C.No.174/2007 pending before the learned Judicial First Class Magistrate Court-I, Thamarassery against the petitioners.

5. In the result, this petition is allowed. C.C.No.174/2007 pending before the learned Judicial First Class Magistrate Court-I, Thamarassery is hereby quashed.

(R.BASANT, JUDGE)

jsr

// True Copy// PA to Judge

R.BASANT, J.

CRL.M.CNo.

ORDER

21ST DAY OF MAY2007